

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

MICHAEL BAZZREA, *et al.*,

Plaintiffs,

v.

ALEJANDRO MAYORKAS, *et al.*,

Defendants.

Case No. 3:22-cv-00265

**DEFENDANTS' CONSENT MOTION TO EXTEND THE DEADLINE TO
FILE A JOINT DISCOVERY AND CASE MANAGEMENT PLAN AND TO
CONTINUE THE INITIAL PRETRIAL AND SCHEDULING CONFERENCE**

Defendants respectfully move for (i) an extension of the parties' deadline to submit a joint discovery and case management plan and (ii) a continuance of the initial pretrial and scheduling conference currently set for November 9, 2022.

Plaintiffs commenced this action on July 25, 2022, to challenge the military's COVID-19 vaccination requirement. *See* ECF No. 1. Soon thereafter, the Court set an initial pretrial and scheduling conference for November 9, 2022, and ordered the parties to file a joint discovery and case management plan under Federal Rule of Civil Procedure 26(f) not fewer than 10 days before the conference—*i.e.*, no later than Sunday, October 30, 2022. *See* ECF No. 3.

Since then, several motions have been filed and are pending the Court's disposition. These include Plaintiffs' motion for a preliminary injunction, *see* ECF No. 17; two motions to intervene submitted by 228 putative intervenors, *see* ECF Nos. 23, 28; Plaintiffs' motion for class certification, *see* ECF No. 38; and Plaintiffs' motion for an emergency temporary restraining order, *see* ECF No. 39. Defendants respectfully submit that the Court's resolution of Plaintiffs' class-certification motion and the motions to intervene, as well as any Rule 12(b) motion to dismiss that Defendants may file after the Court decides Plaintiffs' preliminary-

injunction motion,¹ will (at a minimum) significantly impact the scope of this litigation and, in turn, the parties' estimates of the time they will need to complete discovery and other pretrial matters. The Court's resolution of these pending and prospective motions may also moot certain discovery or scheduling disputes that could otherwise arise between the parties.

Defendants therefore respectfully request that the Court (i) extend the deadline for the parties to file a joint discovery and case management plan until 14 days after the Court resolves Plaintiffs' class-certification motion; and (ii) continue the initial pretrial and scheduling conference currently set for November 9, 2022, until at least 10 days after the parties' new deadline to file a joint discovery and case management plan. Defendants have conferred with Plaintiffs pursuant to Local Rule 7.1, and Plaintiffs consent to this request.

Defendants appreciate the Court's consideration and respectfully request entry of Defendants' proposed order.

Dated: October 24, 2022

Respectfully submitted,

BRIAN M. BOYNTON

Principal Deputy Assistant Attorney General

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Director, Federal Programs Branch

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/s/ Jody D. Lowenstein

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¹ The Court extended Defendants' deadline to respond to Plaintiffs' complaint until 21 days after the Court resolves Plaintiffs' preliminary-injunction motion. *See* ECF No. 34.

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2022, I electronically filed the foregoing document with the Clerk of Court using this Court's CM/ECF system, which will notify all counsel of record of such filing.

/s/ Jody D. Lowenstein

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